

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ERIN M. GARRED,

Plaintiff,

v.

**JACKIE L. WICK, WILLIAM
HOEFEL, SHIRLEY E. HODGE,
HEATHER M. VILLANUEVA,
SCOTT PETTERSON, VICKIE
CLARK, TERESA GRIFFIN,
BETTY WILSON, ASHLEY CLEMENTS,**

Defendants.

CV 10-570-SU

OPINION AND ORDER

MOSMAN, J.,

On February 11, 2011, Magistrate Judge Sullivan issued a Findings and Recommendation (“F&R”) (#12) in the above-captioned case recommending that: (1) defendants’ motion to strike (#11) should be denied; (2) defendant Petterson’s 12(b)(1) motion to dismiss (#7) and Ms. Garred’s motion to withdraw defendant Petterson (#10) should be granted; (3) defendants’ 12(b)(6) motion to dismiss (#3) should be granted—the First, Second and Third Claims without prejudice, and the Fourth Claim with prejudice.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Sullivan's recommendation, I ADOPT the F&R (#12) as my own opinion. Defendants' motion to strike (#11) is DENIED; defendant Petterson's 12(b)(1) motion to dismiss (#7) with prejudice is GRANTED; Ms. Garred's motion to withdraw defendant Petterson (#10) is GRANTED; and defendants' 12(b)(6) motion to dismiss (#3) is GRANTED without prejudice as to the First, Second, and Third Claims, and with prejudice as to the Fourth Claim for breach of contract. If plaintiff has not filed an appropriate amendment within 30 days, the remaining claims shall be dismissed with prejudice.

IT IS SO ORDERED.

DATED this 18th day of March, 2011.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court